

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ROBERT LEE WILLIAMS,

Petitioner,

v.

Case No. 08-C-353

STATE OF WISCONSIN,

Respondent.

ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS

On April 28, 2008, Robert Lee Williams (“Williams”) filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Accompanying Williams’ petition was a motion to proceed in forma pauperis. Before this court may screen Williams’ petition in accordance with Rule 4 of the Rules Governing Section 2254 Cases and determine whether “it plainly appears from the face of the petitions and any exhibits annexed to it that the petitioner is not entitled to relief in district court, the judge shall make an order for its summary dismissal,” Rule 4, Rules Governing Section 2254 Cases, Williams must either pay the required filing fee or the court must determine that he is unable to pay the fee.

The filing fee for a habeas petition is only \$5.00. According to Williams’ petition and affidavit to proceed in forma pauperis, Williams’ monthly income exceeds his monthly expenses by more than \$300.00. Thus, the court finds that Williams is not indigent and therefore the court denies Williams’ petition to proceed in forma pauperis. Williams shall pay the \$5.00 filing fee within **30 days** of this order. If Williams fails to timely pay the filing fee, his petition for a writ of habeas corpus shall be dismissed.

Further, upon the court's first reading of Williams' petition, it appears that Williams' petition may be untimely under the one year statute of limitations set forth in 28 U.S.C. §2244(d)(1). Therefore, Williams shall have **30 days** from the date of this order to provide any explanation he can offer as to why his petition is not untimely under § 2254 or why he should otherwise be permitted to proceed with his petition.

Upon the court's receipt of the required filing fee, the court shall then screen Williams' petition in accordance with Rule 4 of the Rules Governing Section 2254 Cases.

SO ORDERED.

Dated at Milwaukee, Wisconsin this 1st day of May, 2008.

/s/ Aaron E. Goodstein
AARON E. GOODSTEIN
U.S. Magistrate Judge